G. R. S. 59]

GENERAL AND REVENUE SECRETARIAT.

~~190~~ 1892-3

(Madras)

File No. 400

Serial Nos.

Papers Filed.

Month _____

SUBJECT.

Passing orders on the Appeal Petition of Tirumalamma widow of Thimmappiah, worshipper of Ramadevara Temple, Nelavangala Taluk praying for restoration of Inam land belonging to the Temple -

PREVIOUS REFERENCES.

LATER REFERENCES.

Memo.

Appeal Petition No. 169 dated 20th June 1892, from Thimmalamma widow of Thimmapiah, worshipper of Ramadevaru Temple, Nela-Mangala Taluk, applying for restoration of Inam land belonging to the Temple ——————

The Ramadevaru temple at Kanagondahalli in the Nela-mangala Taluk owns Inam land wet and dry acres 15 — Guntas 37 in extent bearing a jodi of Rs 9 8. The last Archik of the temple was one Thimmapiah & He and his brother Venkatramaniah borrowed in 1846, 39 and odd Pagodas from Kari Hanumegowda grandfather of Byrappah, the present Patêl of the Village, and executed a mortgage deed giving over possession of the Inam lands with the trees thereon, on the condition that the mortgagee should enjoy the produce.

lien of interest, and restore possession of the lands whenever the principal was repaid.

2 During the Inam investigation Col. Cole, the Inam Superintendent recorded in the Register the following remarks:— 7-6-1875

"The alienation of a service Inam is not allowed and such alienation is declared void.

2 Whole grant - Deva-daya - Jari —

3. Confirmed on the Jodi ~~this~~ 9-8-- "

3. Thimmaiah died about 1887, and his widow Thimmalammah the Petitioner claims restoration of the Inam land now in Byrappa's enjoyment She urges that her husband and his ancestors before him were the hereditary Archaks enjoying the Inam land of the temple; that Byrappa

nearly $\frac{2}{3}$rds of the Inam land under the pretext of a mortgage deed; that notwithstanding the insufficient income from the portion of the Inam lands in her possession, she has managed to get worship performed at the Temple by her Gumasta one Kambiah; that though she repeatedly applied to Bylappah, he refuses to surrender possession, that she preferred a complaint to the Amildar without any effect and that Bylappah being an influential man in the village she is unable to recover possession.

4. Bylappa states that he has effected repairs at a cost of more than Rs 600/- to the Temple, that Kambiah, Irimmalamma's Gumasta, once offered to pay half the amount of the mortgage amount.

5. In the enquiry

held by the Amildar.
Tirumalamma deposed
that Kambiah her Gumasta
had no authority from her
to offer half the debt; that
she does not know by whom
and when the debt was
contracted and that the
document itself looks
suspicious. She enjoys
part of the Inam land
paying a jodi of Rs 3. 12. -

6. Kambiah states
in his deposition taken before
the Mussrai Officer on the
24th June 1892 that he offered
to pay half the amount of
the mortgage without authority
from Tirumalamma to Bylapah.

7. The predecessor
of the present Amildar who
first held enquiry reported
to the Mussrai Officer that
Bylappah enjoys the Inam
in lieu of interest due under
a mortgage deed executed
in 1846 by Tirumalamma's
husband

husband and his brother, to Bylappa's grand father for 39 and odd Pagodas; that on her husband's death she appointed Kambiah to conduct the worship at the Temple and that there was no necessity of the Inam being given back to Tirumalamma. She could not have been unaware of the mortgage, and she appears to have brought this complaint at the instigation of the man in whose keeping she is at present, in view to defraud the mortgagee of his mortgage debt.

8. The Muzrai Officer condemned the delay in reporting the death of the last Archak and ordered the Inam Title Deed to be recovered from Bylapah and submitted to his Office

9. The present Amildar in reply forwarded the Inam Title Deed and observed that the Inam

land was neither sold nor mortgaged, but that the produce of the Inam is being simply enjoyed by Bylappah in lieu of interest due on the amount borrowed from his grandfather and remarked that the land being a Temple Inam, the Archik had no authority to give away the Same to another on account of interest payable in respect of certain debt and that the Patel was also wrong in taking the land under the said arrangement, that Bylappah has derived much profit from his long enjoyment to the extent of two or three hundred rupees. Taking the annual income of the land to be Rs 45/- and deducting Rs 15/- for the sake of interest, the balance of Rs 30/- per year will give a

20 in 44 years

Even supposing that half the amount might be omitted from the calculation, Bylapp has still got a clear income of Rs 500/-. Under these circumstances the Amildar recommended the restoration of the Inam land to the Temple free of encumbrance. He further was of opinion that the case under notice fell under clause C of the notification contained on page 88 of the Revenue Manual.

10. Thereupon the Muzrai Officer passed the following order:—

" The Inam land was virtually alienated about 45 years ago — Under clause A of the notification No. 266 dated the 17th November 1877 the land cannot be restored to the petitioner, unless the mortgagee Bylappah Voluntarily surrenders it. His possession cannot be disturbed

"Bylappa says he is
willing to give up the land
if the applicant pays him
the amount of the bond
Hence applicant will have
to pay the money due under
the bond to the mortgagee".

11. On the receipt of
the petition No 169 dated 20th
June 1892 from Timmalamma
in the Dewan's Office, it was
referred to the Deputy Commis-
-sioner of Bangalore for report.

This report has been
now received and the con-
-cluding part of which runs
as follows: ———

"Bylappa is willing
to give up the land if the
debt is paid. The Amildar
estimates the income from
the land at Rs 30/- a year,
at this rate Bylappa has
derived a total income of
Rs 1320/- during the 44 years
he has been in possession of

of the land Interest on the debt at 12 per cent would amount to Rs 880/- during the above period. Thus Bylapah has had Rs 440/- more than the interest — an amount which is nearly twice the debt under the Rules of 1877 Bylapah is entitled to retain the land paying half the assessment The orders of 1882 (Vide Page 380 of the Muzrai Memorandum) subject Ivimmalamma to a penalty. If I were left to dispose of the matter I should, all things considered, order that Ivimmalamma should pay off the debt and take the Inam or that she should receive half the assessment from Bylaphah."

C.R

During the Inam settlement which took place within 30 years of the mortgage, the alienation in question was

was declared void; Still the party affected by the order did not appeal or take any measures to get that order set aside.

The Deputy Commissioner observes that the mortgagee was profited to the extent of nearly thrice the amount of the debt. Thus there would be no hardship if the Inam land is now resumed. The Inam Title Deed was with the Patêl till it was called for by the Mwrrai Officer a few months ago. Apparently he was recognised as the manager of the Temple, since the date of the Inam Settlement. I would recommend the restoration of the entire Inam lands free of encumbrance to the Temple and appoint the Patel as the manager of the Institution, who will

make proper arrangements to carry on worship by appoin-ing a competent Pujari.

Petitioner, Irinnalamma's family is not entitled to any consideration, the members thereof being the chief Offenders in the matter. Petitioner who is the only surviving member of the family, being said to be in another man's keeping, is unworthy to have any concern in the Temple worship

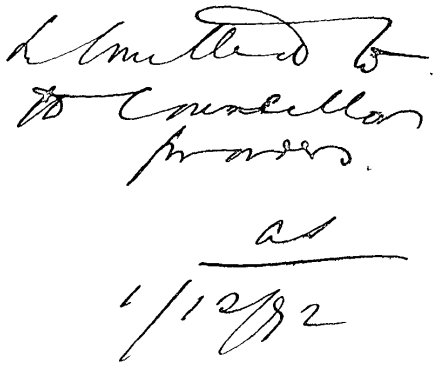
1-12-92.

Posted for hearing on 4th May 1893

In' give a date for by the Pets and notice in proforma and then dispose of the matter in order we cannot deal with the case summarily

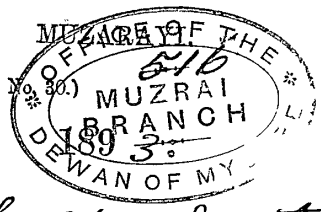
Post for by L from notices to the hearing

1/12/92 + Date of Order & Order to be drawn up



92-70

(General Serial No. 30.)



From The Chief Secretary

To The Amuzrai Supt.

Dated 10 "

Despatched 21 " May

Received 22 "

Enclosures No.

General No. 19280-81

Muzrai. F. No. 295

Forwarding copy of the decision of the council on Petition No. 169 of 1892-93 in connection with the dispute of a mortgaged land belonging to the Rama Devam Temple in the Nelamangala Taluk.

Before the Government of *His Highness* the Maharaja of Mysore.

Petition ~~Appeal~~ No. 169 of 1892-93.

Appellant.

Linimalamma
of Kanagondanhalli,
Nelamangala Taluk,
Bangalore District.

Vs.

Respondent.

Byappa
represented by his
Narayan Row
Advocate.

Decision, dated 6th May 1893

Appellant's husband and his brother who were archaks of Ramadevaru temple in the village of Kanagondanhalli in the Taluk of Nelamangala, mortgaged the Inam land belonging to the Pagoda and borrowed on it 36 and odd Pagodas from the grandfather of the Respondent in 1846. The condition of the mortgage was that the proceeds of the land should be taken in lieu of the interest. The mortgage-deed is on stamp paper. Subsequent to the mortgage, the parties entered into a private arrangement by which the Appellant

engaged

enjoys one-third of the Income, the remaining two-thirds being enjoyed by the Respondent. The Indian Commissioner confirmed the whole Income in the name of the Pagoda, with a remark that the alienation was invalid. The Pagoda is still maintained and in good condition. The Respondent is willing to restore the Land to the Pagoda, if her money is paid back, but Appella is unable and is willing to pay the money, but wants the Income to be restored to her.

2 The Secretary to the Board of Revenue, the Respondent has been asked to report the Government's opinion as to the resolution of the Income and the appointment of the Valet as the manager of the Institution.

3 The Government is advised to inform the Respondent that the Income cannot be diverted from the Land. The case is that Pattamudar

the rules of 1877 sanctioned by the Government of India (vide pages 88 and 89 of the Revenue Manual) and the papers will, therefore, be forwarded to the Inam Commissioner, with a request that he will enfranchise that portion of the Inam which is now in the possession of the Respondent on half assessment, making the quit-rent now imposed on it payable to the Pagoda. The Inam Officer will determine to whom the quit-rent should be paid to be spent for temple purposes. Under no circumstances, should Appellant should be allowed to receive the quit-rent on behalf of the Pagoda. The portion now enjoyed by the Appellant may continue to be enjoyed by her so long as she does the services required of her. It is not known whether the temple has any other allowances from the Inam Funds. If it has, the Inam

Inspector &c

Superintendent may consider whether it would not be advisable to pay the Respondent the money due to him, from those allowances, and take up the whole sum for the Pagodas.

"By Order"

Sd/- Narain Rao

for Chief Secretary.

No 19280-81 dt 10-5-93
PF 295 21-5-93

(Copy forwarded to the Divisional Superintendent.

"By Order"

M. Narain Rao

for Chief Secretary

Asst. Sec.

Kindly

I don't think it
Temple enjoys any
Cash or other allowances
whatever exclusive to
Register & let the
know.
A1
22/5/93

Sir,

This temple enjoys
no allowances of any
kind.

22-5-93

C/ Inspector Hqrs
Mercantile Register
C.I.
20/5/93